

**REMARKS/ARGUMENTS**

This Response is being submitted to respond to the Office Action dated March 9, 2004. Claims 1-40 are pending.

The Examiner rejected claims 1-2, 4-5, 9-10, 12-13, 15, 21-23, 25, 29-30, and 32-35 under 35 USC §103 (a) as being unpatentable over Fredlund et al. (6,631,011) in view of Reeley et al. (5,893,037). Applicant respectfully disagrees.

The present invention provides a method where a traditional analog film processing facility can send film images and notifications to a consumer's visual display cell phone so that the consumer can preview the images and place orders with the processing facility through the cell phone or similar wireless communication device. This is in recognition of the fact that as the ease of use of digital cameras improves, a large number of consumers will be drawn away from using film based cameras, resulting in a loss of sales for film processing and related equipment. Thus, the present invention adds convenient features to the business of film processing in order to allow it to compete with the rapidly advancing digital camera business.

In contrast, the primary reference cited by the Examiner, Fredlund, discloses a method for remotely selecting and ordering photographic prints wherein a photo finisher develops photographic film and then returns index prints to the customer with instructions on how to order prints over the telephone.

Applicant agrees with the Examiner that Fredlund is silent to "disclosing transmitting said digital image data through a telephone network to a first portable device including wireless communication apparatus and a visual display screen for visual display of image," as recited in claim 1.

In order to correct the deficiencies of Fredlund, the Examiner cites Reeley for

disclosing the transmission of digital data through a telephone network. Reelee discloses a combined digital and film camera that is capable of transmitting electronic images over a cellular telephone attached to the camera.

According to MPEP §2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. It is respectfully submitted that none of these criteria are met in case at hand.

It is respectfully submitted that an examination of the problem to be solved demonstrates there is no teaching or suggestion (explicit or implicit) to combine the two references to arrive at the claimed invention, and that even if the references were combined, there would be no reasonable expectation of success.

In the present invention, the inventor was faced the problem of how to provide a film processor with a convenient way to notify a consumer of processing information and results in a manner that allows the consumer to view the prints prior to ordering, while simultaneously allowing the consumer to then order selected prints and to forward the images to another device. The problem was solved by transmitting the digital images scanned from processed film to the consumer's portable device (e.g., cell phone), wherein the consumer may then display, order and forward the images.

In contrast, the nature the problem faced by Fredlund was how to provide an improved system for ordering and re-ordering prints from negatives or slides that decreases the need of having the customers handle the negatives (column 2, lines a 15-28; and column

6, lines 29-34). Fredlund chose to solve this problem by scanning the processed film, producing an index print of the film, physically sending the index prints to the customer, and allowing the customer to order selected prints chosen from the index prints via telephone from the customer's home to the photo finisher (Abstract).

Although Fredlund teaches returning index prints to a customer for allowing the customer to order prints, Fredlund requires that the index prints first be printed and then "returned" to the consumer. Because it is a printed copy of the index prints that is returned to the consumer, Fredlund's requires that the index prints be sent by mail or parcel service to the customer (column 4, line 29). This method fails to teach or suggest the present invention because Fredlund's index prints are sent to the customer by mail, rather than electronically, and mail may take days or weeks to reach the customer, which is too long to serve as a notice function. Rather, the purpose of Fredlund's sending of the index print is to reduce the need for the customer to handle the negatives. The present invention, by contrast, sends a notice to the consumer's cellphone electronically, which reaches the user directly and serves as immediate notice that the orders ready.

The problem faced by Reelee was how to reduce the expense and complexity of data transmission in electronic/silver-halide image capture systems that are useful in news gathering and surveillance operations, where it may be desirable to electronically capture an image for approval prior to creating a photographic exposure (column 1, lines 35-53). Reelee solved this problem by providing a combined electronic/silver-halide image capture system that is capable of transmitting electronic image data using conventional cellular telephone transmission technology (column 1, lines 56-58).

It is respectfully submitted that of one of ordinary skill in the art would not look to Reelee to overcome the shortcomings of Fredlund, because Reelee teaches the transmission of

images *out* of a digital camera using cellular technology. In the present invention, notification that film processing is complete is sent *to* a portable device of the user, and that device already has wireless capability. Consequently, Reeley is inapplicable to the present invention.

In addition, it is noted that Reeley and Fredlund fail to provide an explicit or implicit motivation to combine the two references due to the impracticality of the result. Further, the combination would still fail to teach or suggest the claims of the present invention.

The combination of Fredlund with Reeley would simply result in Fredlund's image processing in which Reeley's cellular telephone is used to send an electronic version of Fredlund's index print to the customer. It is submitted, however, that it would be impractical for a film processing center to use a cellular telephone to transmit digital data, when such facilities would have computers for transmitting the digital data over the Internet, as is well-known in the art, which would be more convenient, faster, and less expensive to use. And, even if the processing facility transmitted the data using a cellular telephone, there is no teaching of how the digital index print would be sent from Reeley's cellular telephone to the user. The obvious assumption would be that the digital index print is sent by e-mail, where the customer would presumably read the e-mail on a computer located at home or work. Thus, the combination still fails to teach or suggest "transmitting said digital image data through a telephone network to a first portable device including wireless communication apparatus and a visual display screen for visual display of image," as recited in claim 1.

In view of the foregoing, it is submitted that claims 1-40 are allowable over the cited references. Because the secondary references stand or fall with the primary references, claims are allowable because they are dependent upon the allowable independent claims. Accordingly, Applicant respectfully requests reconsideration and passage to issue of claims

1-40 as now presented.

Applicant's attorney believes that this application is in condition for allowance.


Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

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Date

  
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